

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of )

Amendment of Parts 73 and 74 of the )  
Commission's Rules to Establish Rules for Digital )  
Low Power Television, Television Translator, and )  
Television Booster Stations and to Amend Rules for )  
Digital Class A Television Stations )

**MB Docket No. 03-185**

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**To: The Commission**

**REPLY COMMENTS OF THE RURAL 700 MHz BAND LICENSEES**

The Rural 700 MHz Band Licensees, by their attorneys, hereby submit these reply comments in response to the August 2003 *Notice of Proposed Rule Making* issued by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned docket. The rural telephone companies, cooperatives, entrepreneurs and rural telco subsidiary companies that comprise the "Rural 700 MHz Band Licensees" are listed in Attachment A hereto.

**I. New Licensees, Full-Power Broadcasters and Public Safety Agencies Agree that the FCC Should Not Expand LPTV Operations in the 700 MHz Band**

On reviewing the initial comments in this proceeding, there is a clear consensus among new licensees and others with an interest in developing new wireless services on a primary basis in the Lower and Upper 700 MHz Bands that licensing new digital LPTV stations or permitting any type of expanded LPTV operations in either of these spectrum bands would be unsound public policy. Along with the seventeen (17) companies represented in the initial comments of the Rural 700 MHz Band Licensees, more than twenty (20) other commentators representing twenty-six (26) different companies opposed

the idea of using some or all of the 700 MHz Band spectrum for digital LPTV operations.<sup>1</sup>

While recognizing that the Commission's digital LPTV proposals were well intentioned, numerous commentors, in addition to the Rural 700 MHz Band Licensees, agree that the proposals were based on an unfounded assumption that commercial services in the 700 MHz Band were unlikely to be introduced in the near future.<sup>2</sup> Moreover, commentors agreed with the Rural 700 MHz Band Licensees that licensing of new digital LPTV stations in the 700 MHz Band would be unfair to new licensees;<sup>3</sup> it would be poor spectrum management;<sup>4</sup> it would undermine the integrity of the FCC's auction processes;<sup>5</sup> it would set the stage for bitter community/political battles between LPTV and translator licensees and new licensees (including public safety agencies);<sup>6</sup> it would upset business decisions made in reliance on the Commission's prior statements and an existing level of incumbency;<sup>7</sup> it would undermine the Commission's policies with respect to the DTV transition;<sup>8</sup> and it would delay the deployment of advanced digital

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<sup>1</sup> Such commentors include Access Spectrum, LLC; Adams Telecom, Inc.; Aloha Partners, L.P. ("Aloha"); Association of Public Safety Communications Officials-International, Inc.; Cavalier Group, LLC ("Cavalier"); Corr Wireless Communications; Cox Broadcasting and the Liberty Corporation; DataCom, LLC; Harbor Wireless, LLC; KM Broadcasting, Inc.; LIN TV Corp. and Banks Broadcasting, Inc.; Martin Group, Inc.; Motorola, Inc.; Paxson Communications Corporation; Pioneer Telephone Cooperative, Inc.; QUALCOMM, Incorporated; Rural Stakeholders (*comprised of* Arctic Slope Telephone Association Cooperative, Inc.; Grand River Communications, Inc.; Kanokla Telephone Association, Inc.; Peoples Telephone Cooperative, Inc.; and Valley Telephone Cooperative, Inc.); United Telephone Association; Viacel Corporation; and Vulcan Spectrum, LLC.

<sup>2</sup> See, e.g., Comments of Cavalier at 2-6; Comments of QUALCOMM at 3; Comments of Rural Stakeholders at 4.

<sup>3</sup> See, e.g., Comments of Martin Group at 2-3.

<sup>4</sup> See, e.g., Comments of Access Spectrum at 3.

<sup>5</sup> See, e.g., Comments of Aloha at 4.

<sup>6</sup> See Comments of APCO at 2.

<sup>7</sup> See, e.g., Comments of Aloha at 4; Comments of Cavalier at 2-6; Comments of LIN TV Corp at 4-5; Comments of QUALCOMM at 3.

<sup>8</sup> See, e.g., Comments of Cavalier at 6-11; Comments of Rural Stakeholders at 5-6;

services to rural areas.<sup>9</sup> Commentors have also demonstrated how new LPTV stations would themselves be disadvantaged by the type of licensing being considered by the Commission.<sup>10</sup>

Recognizing these many obstacles, the Rural 700 MHz Band Licensees agree with Access Spectrum that it would be far better policy for the FCC to prohibit digital translators, boosters and low power television facilities in the 700 MHz bands.<sup>11</sup> Commentors have also demonstrated that there is no existing, unmet need for more LPTV stations,<sup>12</sup> and that granting secondary stations an additional channel for digital operations would not have a meaningful impact on consumer adoption of DTV. Therefore, the FCC should refrain from accepting applications for new digital LPTV and television translator stations by non-incumbents.<sup>13</sup>

At this stage, the Commission's priorities should be clearing the entire 700 MHz Band of incumbent broadcasters and facilitating the DTV transition for full-power broadcasters. Full-power broadcasters and new licensees agree that now is not the time for the FCC to assign additional spectrum to digital LPTV. Even with secondary status, commentors have demonstrated that assigning additional spectrum to digital LPTV will only complicate and delay the DTV transition.<sup>14</sup>

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<sup>9</sup> See, e.g., Comments of Rural Stakeholders at 3.

<sup>10</sup> See Comments of Aloha at 4.

<sup>11</sup> Comments of Access Spectrum at 6.

<sup>12</sup> Comments of Aloha at 3.

<sup>13</sup> See, e.g., Comments of Cordillera Communications at 1-2.

<sup>14</sup> Comments of Cavalier at 6-11; Comments of Cox Broadcasting at 2-5. Cox also provides evidence that secondary LPTV stations in some instances have impeded full-power stations from transitioning to digital. See Comments of Cox Broadcasting at 6-7.

## **II. The Commission Can Promote Rural LPTV Interests by Allowing Incumbent Licensees to “Flash Cut” to Digital on their Existing Channels**

While it may not be appropriate for the Commission to pursue new licensing of secondary LPTV services at this time, the Rural 700 MHz Band Licensees agree with other commenters that the FCC can nonetheless promote the availability of digital television services in rural areas without delaying the availability of new wireless services if it allows LPTV stations to “flash cut” to digital operations on their existing channel. Such operational and regulatory flexibility is supported by a wide array of interests, including LPTV licensees, new 700 MHz Band licensees and full-power broadcasters.<sup>15</sup> Likewise, allowing stations to “multi-cast” on one digital channel so that multiple licensees can share a single 6 MHz block of spectrum, as suggested by Bonneville International Corporation,<sup>16</sup> might be a way for the Commission to allow LPTV stations to provide DTV service on a core channel that does not interfere with the DTV transition or new wireless services in the Lower 700 MHz Band.

LPTV licensees have urged the Commission to provide translators with the maximum flexibility to enable translators to best serve rural communities.<sup>17</sup> In this regard, the Rural 700 MHz Band Licensees do not object to allowing maximum operational flexibility, so long as there is no expansion of the LPTV service (digital or analog) in the 700 MHz band, and so long as regulatory flexibility does not impede or delay DTV transition for full power broadcasters.

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<sup>15</sup> See, e.g., Comments of Bonneville International Corporation at 3, 5-6; Comments of Cavalier at 14-15; Comments of Cox Broadcasting at 1.

<sup>16</sup> See Comments of Bonneville International Corporation at 5.

<sup>17</sup> See, e.g., Comments of KAET(TV )

### **III. The Commission Should Adopt Clear Rules Governing the Protection of New Primary Services from Harmful Interference**

As part of this proceeding, the Rural 700 MHz Band Licensees urge the Commission to adopt clearcut rules governing the protection of new primary services from harmful interference. As some commentors have noted, the Commission's existing rules governing co-channel and adjacent channel interference protection for land mobile facilities operating in the 470-512 MHz band (UHF-TV channels 14-20) are not appropriate, because new primary operations in the 700 MHz bands "will not mirror land mobile operations in the 470-512 MHz band" and the contour protections provided under Rule Section 74.709 are not applicable to fixed use.<sup>18</sup> Moreover, the Rural 700 MHz Band Licensees share Aloha's concern that ambiguities in Rule Section 74.7003, governing interference prohibitions between LPTV and other broadcast stations, could lead LPTV operators to believe that they have greater interference protection rights with respect to new licensees than the Commission intended.<sup>19</sup> Public Safety entities and broadcasters have also noted their concerns with the Commission's existing interference rules and their application to new licensees.<sup>20</sup>

The Rural 700 MHz Band Licensees urge the Commission to clarify its interference protection rules in a manner that is consistent with the secondary status of traditional LPTV services, and the primary status of new licensed operations.

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<sup>18</sup> Comments of Access Spectrum at 5.

<sup>19</sup> Comments of Aloha at 3.

<sup>20</sup> Comments of APCO at 3-4 (noting public safety concerns about the adequacy of DTV-land mobile interference regulations in light of recent interference reports); Comments of LIN TV Corp at 5 (noting that auction licensees will need to document interference to gain relief).

#### **IV. CONCLUSION**

For reasons stated above, the Rural 700 MHz Band Licensees urge the Commission not to permit new or expanded LPTV operations anywhere in the 700 MHz Band and to ensure that any future LPTV licensing in the core spectrum will be done in a way that will ensure that the DTV transition is not delayed.

Respectfully Submitted,

**THE RURAL 700 MHZ BAND LICENSEES**

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Filed: December 29, 2003

## **Attachment A**

A list of the rural telephone companies, cooperatives, entrepreneurs and rural telco subsidiary companies that comprise the “Rural 700 MHz Band Licensees” is provided below.

- 3G COMM, LLC
- Acumen Technologies, Inc.
- Allcom Communications, Inc.
- Arvig Communications Systems
- Cameron Communications Corporation
- CTC Telcom, Inc.
- Dickey Rural Services, Inc.
- Eastern Colorado Wireless Partnership
- First Cellular of Southern Illinois
- Gardonville Cooperative Telephone Association
- Kennebec Telephone Company
- North Dakota Network Company
- Park Region Mutual Telephone Company
- Polar Communications Mutual Aid Corporation
- PVT Networks, Inc.
- Red River Rural Telephone Association, Inc.
- Rothsay Telephone Company
- Webster Calhoun Cooperative Telephone Association

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